

ATTACHMENT A

AB 2980 TEXT AND COMMITTEE ANALYSIS

AMENDED IN ASSEMBLY APRIL 19, 2004

AMENDED IN ASSEMBLY APRIL 12, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2980

Introduced by Assembly Member Salinas
(Coauthors: Assembly Members Diaz, Dutton, Laird, Longville,
Vargas, and Wiggins)
(Coauthors: Senators Denham, Florez, McPherson, and Soto)

February 20, 2004

An act to add Section 65585.4 to, to add and repeal Section 65585.3 of, and to repeal, add, and repeal Section 65585.2 of, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2980, as amended, Salinas. Housing element: self-certification.

Existing law authorizes cities and counties within the jurisdiction of the San Diego Association of Governments to self-certify the revision of its general plan housing element, and makes the self-certified cities and counties eligible for specified state housing funds in the same manner as other jurisdictions.

This bill, until ~~January 1, 2016~~ *an unspecified date*, would provide procedures whereby a city or county may elect to participate in alternative production-based certification of its housing element and would make those cities and counties eligible for specified state housing funds in the same manner as other jurisdictions.

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Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Action to foster, facilitate, and enhance local and regional
4 collaboration on housing production will produce unique
5 solutions that, when gathered together throughout the state, will
6 serve to promote and provide for additional housing opportunities.

7 (b) A pilot program establishing an alternative means to
8 determine that a housing element substantially complies with the
9 requirements of Article 10.6 (commencing with Section 65580) of
10 Chapter 3 of Division 1 of Title 7 of the Government Code will test
11 whether establishing an affordable housing production
12 requirement at the local government level will move toward
13 attainment of the state housing goal.

14 SEC. 2. Section 65585.2 of the Government Code is repealed.

15 SEC. 3. Section 65585.2 is added to the Government Code, to
16 read:

17 65585.2. (a) A city or county may elect to participate in
18 alternative production-based certification of the housing element
19 required pursuant to this article. A city or county that so elects shall
20 adopt a resolution declaring its intent to participate in alternative
21 production-based certification and shall notify the appropriate
22 council of governments within 30 days of receiving its allocation
23 of the regional housing need pursuant to Section 65584.

24 (b) A notice of preparation stating that the jurisdiction has
25 adopted a resolution electing to participate in alternative
26 production-based certification of its housing element and setting
27 forth the date of the scoping meeting required by subdivision (c)
28 shall be published by the city or county at least one time in a
29 newspaper of general circulation, shall be sent by certified mail to
30 the department, and shall be mailed by the city or county to the last
31 known name and address of all organizations and individuals who
32 have made a written request for materials relating to the
33 jurisdiction's general plan or housing element. The notice of
34 preparation shall identify the resolution adopted pursuant to
35 subdivision (a) by number.

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1 (c) At least 10 days after the publication of the notice of
2 preparation, the jurisdiction shall convene a scoping meeting to
3 identify probable future projects as provided in paragraph (4) of
4 subdivision (a) of Section 65585.3, development standards,
5 special needs housing, and other information necessary for the
6 preparation of a housing element. A meeting may be convened by
7 the jurisdiction or upon the request of a member of the public,
8 property owner, the department, or any other interested party.

9 (d) A city or county that elects to participate in alternative
10 production-based certification of its housing element shall prepare
11 an administrative draft of its housing element for public comment,
12 including comments from the department. The jurisdiction shall
13 consider all comments, and shall revise the administrative draft if
14 the jurisdiction deems it appropriate.

15 (e) At the conclusion of the public hearing required by Section
16 65355, the jurisdiction shall provide public notice of the
17 availability of the draft alternative production-based housing
18 element for comment. This notice shall be mailed to the last known
19 name and address of all organizations and individuals who have
20 previously requested notice in writing, and the department, and
21 shall be published at least one time in a newspaper of general
22 circulation.

23 (f) The jurisdiction shall evaluate comments received from
24 persons who reviewed the draft alternative production-based
25 housing element and shall prepare a written response, and
26 revisions to the draft if appropriate. The final draft of the
27 production-based housing element shall incorporate the written
28 response to the comments.

29 (g) Prior to the final adoption of the housing element, the
30 jurisdiction shall hold a public hearing to consider the final draft.
31 Notice of the public hearing shall be given pursuant to Section
32 65090.

33 (h) This section shall remain in effect only until January 1,
34 ~~2016~~ _____, and as of that date is repealed, unless a later enacted
35 statute, that is enacted before January 1, ~~2016~~ _____, deletes or
36 extends that date. However, a jurisdiction that elected to
37 participate in alternative certification on or before December 31,
38 ~~2014~~ _____, may complete its planning period under this section
39 beyond the repeal date.

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1 SEC. 4. Section 65585.3 is added to the Government Code, to
2 read:

3 65585.3. (a) A city or county that adopts an alternative
4 production-based certification of the housing element pursuant to
5 Section 65585.2 shall submit a certification of compliance to the
6 department with its adopted housing element or amendment
7 within 10 days of the adoption of the final draft. In order to
8 participate in alternative production-based certification, the
9 legislative body, after holding a public hearing, shall, by
10 resolution, make findings, based on substantial evidence, that it
11 has met the following criteria:

12 (1) The jurisdiction's housing element substantially complies
13 with the requirements of Section 65583, including addressing the
14 needs of all income levels.

15 (2) The jurisdiction's housing element identifies adequate sites
16 for its share of the regional housing need as determined pursuant
17 to Section 65584.

18 (3) The jurisdiction's housing element requires the jurisdiction
19 to produce or cause to be produced ~~15~~ _____ percent of the
20 jurisdiction's share of the regional housing need for very low,
21 low-, and moderate-income households, as determined pursuant to
22 Section 65583, within the jurisdiction during the planning period,
23 that is affordable to very low and low-income households. At least
24 one-third of the units produced or caused to be produced shall be
25 affordable to very low income households.

26 (4) The jurisdiction has identified probable future projects that
27 will produce or cause the production of the housing required by
28 paragraph (3). For purposes of this section, "probable future
29 projects" shall have the same definition as found in subparagraph
30 (B) of paragraph (1) of subdivision (b) of Section 15130 of Title
31 14 of the California Code of Regulations.

32 (5) For the first planning period in which the jurisdiction elects
33 to participate in alternative production-based certification, either
34 of the following occurred:

35 (A) The department determined pursuant to Section 65585 that
36 the jurisdiction's housing element for the immediately preceding
37 planning period substantially complied with the requirements of
38 this article.

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1 (B) The jurisdiction produced or caused to be produced in the
2 immediately preceding planning period, at least ~~50~~ _____ percent
3 of the number of housing units required by paragraph (3).

4 (6) For subsequent housing element revisions, the jurisdiction
5 has provided the number of housing units required by paragraph
6 (3) within the previous planning period.

7 (b) The units produced or caused to be produced shall be
8 created through new construction. For purposes of this section, if
9 a unit is abandoned or otherwise not in residential use for a period
10 of six months or more, and is then acquired or substantially
11 rehabilitated, the unit shall be considered "new construction."

12 (c) Notwithstanding subdivision (b), if at least ~~60~~ _____ percent
13 of the housing stock in a city or county was constructed prior to
14 1980, as determined by the most recent decennial census of the
15 United States; if less than 5 percent of the land zoned for residential
16 purposes within a city or a census defined place, as defined in
17 Section 21159.20 of the Public Resources Code, has not been
18 developed for urban uses; or if a city or county has adopted a plan
19 to limit or protect surrounding agricultural lands, open space, or
20 natural resources from development, then the city or county may
21 count toward not more than ~~40~~ _____ percent of its requirements
22 under this section residential units developed or acquired by any
23 of the following means:

24 (1) Acquisition of a unit to create or maintain affordability.

25 (2) Substantial rehabilitation.

26 (3) Rental or ownership assistance.

27 (4) Preservation of the availability of units affordable to lower
28 income households in developments that are assisted, subsidized,
29 or restricted by a public entity and are threatened with imminent
30 conversion to market rate housing.

31 (5) Single room occupancies.

32 (6) Assisted living units for very low and low-income seniors.

33 (7) Purchase of affordability covenants.

34 (8) Any other means of creating a residential unit affordable to
35 very low and low-income households.

36 (d) One year following the adoption of the resolution pursuant
37 to subdivision (a), and annually thereafter, the jurisdiction shall
38 hold a public hearing to review the production or plans for
39 production of the housing required to be produced pursuant to
40 paragraph (3) of subdivision (a) and to identify any probable future

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1 projects that were not identified previously. Notice of the public
2 hearing shall be given pursuant to Section 65090 and to all persons
3 who submitted comments to the draft housing element and who
4 requested notice of the annual review.

5 (e) One year following the adoption of the resolution pursuant
6 to subdivision (a) of Section 65585.2, and annually thereafter, the
7 jurisdiction shall send a report to the department documenting the
8 findings of the annual review held pursuant to subdivision (d). If
9 the jurisdiction fails to submit an annual report in each of the first
10 three years after adoption of the resolution, the department may
11 conduct an audit to determine if the jurisdiction is making
12 significant progress toward achieving the production goals
13 established by the housing element.

14 (f) When a city or county participates in the alternative
15 production-based certification process in compliance with this
16 section, ~~all of the following shall apply:~~

17 ~~(1) Section 65585 does not apply to the city or county.~~

18 ~~(2) In any challenge of a local jurisdiction's alternative~~
19 ~~production-based certification, the court's review shall be limited~~
20 ~~to determining whether the alternative certification is accurate and~~
21 ~~complete as to the criteria for alternative certification. Where there~~
22 ~~has not been a successful challenge of the alternative certification,~~
23 ~~there shall be a rebuttable presumption of the validity of the~~
24 ~~housing element or amendment.~~

25 ~~Section 65585 shall not apply to the city or county.~~

26 (g) This section shall remain in effect only until January 1,
27 ~~2016~~ _____, and as of that date is repealed, unless a later enacted
28 statute, that is enacted before January 1, ~~2016~~ _____, deletes or
29 extends that date. However, a jurisdiction that elected to
30 participate in alternative certification on or before December 31,
31 ~~2014~~ _____, may complete its planning period under this section
32 beyond the repeal date.

33 ~~SEC. 4.~~

34 ~~SEC. 5.~~ Section 65585.4 is added to the Government Code, to
35 read:

36 65585.4. Notwithstanding any other provision of law, any city
37 or county that has a housing element that has been certified
38 pursuant to the requirements of Section 65585.1 or 65585.2 shall
39 be considered to be fully eligible to participate in any program
40 created by, or receiving funds from, the state in the identical

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- 1 manner and to the same degree as those local jurisdictions deemed
- 2 in substantial compliance with the requirements of this article by
- 3 the department pursuant to Section 65585.

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Date of Hearing: May 5, 2004

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Judy Chu, Chair

AB 2980 (Salinas) - As Amended: April 19, 2004

Policy Committee: Local
Government Vote: 5-1
Housing and Community Development 5-3

Urgency: No State Mandated Local Program:
No Reimbursable:

SUMMARY

This bill establishes an alternative production-based, self-certification process for the housing elements of cities and counties. The key provisions of the bill specifying the production standard that cities and counties would be required to meet in order to self-certify their housing elements have been left blank, to allow the bill to move forward while the various stakeholders strive to meet a consensus.

FISCAL EFFECT

The Department of Housing and Community Development (HCD) would incur unknown savings from being relieved of the responsibility of certifying the housing elements of cities and counties participating in the production-based, self-certification process.

COMMENTS

1)Background . The state housing element law requires that cities and counties prepare a housing element as one of seven required elements in their local general plans. The housing element is the only general plan element that local governments are required to update on a regular cycle, and the only element that must be reviewed and approved by a state agency (HCD). State housing element law compels local governments to plan for sufficient housing affordable to all income levels.

2)Rationale . This bill seeks to create an incentive for the

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production of affordable housing by creating an alternative production-based certification of the housing element. To participate in the production-based certification process, jurisdictions would have to meet a certain production standard that is based on the Regional Housing Needs Assessment. Jurisdictions that adopt the production-based standard would be allowed to self-certify their housing elements and would not need to obtain certification from HCD.

The author has removed and left blank the key provisions of this bill that establish the production-based standard, so that members of the Housing Element Working Group, which includes representatives from HCD, cities, counties, the building industry and housing advocates, can reach a consensus on this issue.

Analysis Prepared by : Stephen Shea / APPR. / (916) 319-2081